

105TH CONGRESS
1ST SESSION

S. 1185

To provide employees with more access to information concerning their pension plans and with additional mechanisms to enforce their rights under such plans.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 1997

Mr. GRASSLEY (for himself and Mr. BREAUX) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To provide employees with more access to information concerning their pension plans and with additional mechanisms to enforce their rights under such plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PERIODIC PENSION BENEFITS STATEMENTS.**

4 (a) IN GENERAL.—Section 105(a) of the Employee
5 Retirement Income Security Act of 1974 (29 U.S.C.
6 1025(a)) is amended by striking “shall furnish” and all
7 that follows through the period and inserting “shall—

8 “(1) in the case of a plan other than a defined
9 benefit plan, furnish to each plan participant at

1 least once each year, and, in the case of any plan,
 2 furnish to a plan participant or beneficiary upon
 3 their written request, a statement in written or elec-
 4 tronic form indicating, on the basis of the latest
 5 available information—

6 “(A) the total benefits accrued, and

7 “(B) the nonforfeitable pension benefits, if
 8 any, which have accrued, or the earliest date on
 9 which benefits will become nonforfeitable, and

10 “(2) in the case of a defined benefit plan, fur-
 11 nish to each plan participant at least once every 3
 12 years, a statement in written or electronic form indi-
 13 cating the plan’s approximate benefit levels at var-
 14 ious levels of pay and service, including information
 15 as to whether such benefit levels are affected by
 16 breaks in service, family leave, or otherwise.”.

17 (b) RULE FOR MULTIEMPLOYER PLANS.—Section
 18 105(d) of the Employee Retirement Income Security Act
 19 of 1974 (29 U.S.C. 1025(d)) is amended to read as fol-
 20 lows:

21 “(d) Notwithstanding subsection (a), in the case of
 22 a plan to which more than 1 unaffiliated employer is re-
 23 quired to contribute and to which subsection (a)(1) ap-
 24 plies, a statement described in subsection (a)(1) shall be

1 required upon the written request of a participant or bene-
 2 ficiary.”.

3 (c) PENALTY FOR FAILURE TO DISCLOSE.—Section
 4 502(c)(1)(A) of the Employee Retirement Income Security
 5 Act of 1974 (29 U.S.C. 1132(c)(1)(A)) is amended by
 6 striking “or section 101(e)(1)” and inserting “, section
 7 101(e)(1), or section 105(a)”.

8 (d) CONFORMING AMENDMENTS.—

9 (1) Section 101(a)(2) of the Employee Retire-
 10 ment Income Security Act of 1974 (29 U.S.C.
 11 1021(a)(2)) is amended by striking “105(a) and
 12 (c)” and inserting “105(a), (c), and (d)”.

13 (2) Section 106(b) of such Act (29 U.S.C.
 14 1026(b)) is amended by striking “and 105(c)” and
 15 inserting “, 105(c), and 105(d)”.

16 (e) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to plan years beginning after the
 18 earlier of—

19 (1) the date of issuance by the Secretary of
 20 Labor of regulations—

21 (A) providing guidance for simplifying de-
 22 fined benefit plan calculations with respect to
 23 the information required under section 105 of
 24 the Employee Retirement Income Security Act
 25 of 1974 (29 U.S.C. 1025), and

1 (B) requiring that the statements required
 2 under the amendments made by this section are
 3 written in a form calculated to be understood
 4 by an average plan participant and specifying
 5 model language for such statements, or
 6 (2) December 31, 1998.

7 **SEC. 2. DISCLOSURE OF BENEFIT CALCULATIONS.**

8 (a) IN GENERAL.—Section 105 of the Employee Re-
 9 tirement Income Security Act of 1974 (29 U.S.C. 1025)
 10 is amended by adding at the end the following:

11 “(e)(1) In the case of a participant or beneficiary who
 12 is entitled to a distribution of a benefit under an employee
 13 pension benefit plan, the administrator of such plan shall
 14 provide to the participant or beneficiary the information
 15 described in paragraph (2) upon the written request of
 16 the participant or beneficiary.

17 “(2) The information described in this paragraph in-
 18 cludes—

19 “(A) a worksheet explaining how the amount of
 20 the distribution was calculated and stating the as-
 21 sumptions used for such calculation,

22 “(B) upon written request of the participant or
 23 beneficiary, any documents relating to the calcula-
 24 tion (if available), and

1 “(C) such other information as the Secretary
2 may prescribe.

3 Any information provided under this paragraph shall be
4 in a form calculated to be understood by the average plan
5 participant.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 101(a)(2) of the Employee Retirement
8 Income Security Act of 1974 (29 U.S.C.
9 1021(a)(2)), as amended by section 1(d)(1), is
10 amended by striking “105(a), (c), and (d)” and in-
11 serting “105(a), (c), (d), and (e)”.

12 (2) Section 106(b) of such Act (29 U.S.C.
13 1026(b)), as amended by section 1(d)(2), is amend-
14 ed by striking “and 105(d)” and inserting “105(d),
15 and 105(e)”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to distributions made after the
18 date of enactment of this Act.

19 **SEC. 3. DISCRETIONARY SECRETARIAL IMPOSITION OF**
20 **PENALTIES FOR FAILURE TO DISCLOSE TO**
21 **PARTICIPANTS AND BENEFICIARIES.**

22 (a) IN GENERAL.—Section 501(c) of the Employee
23 Retirement Income Security Act of 1974 (29 U.S.C.
24 1132(c)) is amended by adding at the end the following:

1 “(7) The Secretary may assess a civil penalty of not
 2 more than \$100 a day for each violation by any adminis-
 3 trator of section 104(b) or 105. For purposes of this para-
 4 graph, each violation with respect to any single participant
 5 or beneficiary shall be treated as a separate violation.”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 this section shall apply to violations occurring after the
 8 date of enactment of this Act.

9 **SEC. 4. CLARIFICATION OF DEFINITION OF PARTICIPANT.**

10 Section 3(7) of the Employee Retirement Income Se-
 11 curity Act of 1974 (29 U.S.C. 1002(7)) is amended by
 12 striking “who is or may become” and inserting “who was,
 13 is, or may become”.

14 **SEC. 5. REVIEW OF DENIAL OF BENEFIT CLAIMS.**

15 (a) MODEL ALTERNATIVE DISPUTE RESOLUTION
 16 PROCEDURE.—Section 503 (29 U.S.C. 1133) is amend-
 17 ed—

18 (1) by inserting “(a) IN GENERAL.—” after
 19 “SEC. 503.”; and

20 (2) by adding at the end the following:

21 “(b) MODEL ALTERNATIVE DISPUTE RESOLUTION
 22 PROCEDURES.—

23 “(1) IN GENERAL.—The Secretary shall estab-
 24 lish a model alternative dispute resolution procedure
 25 to be adopted by any plan at its discretion for ap-

1 peals of plan benefits claims denials to which sub-
2 section (a) applies.

3 “(2) EXPERTS AND FEES.—The Secretary—

4 “(A) shall maintain a roster of employee
5 benefit experts who may be called upon to serve
6 as neutral experts in the procedure under para-
7 graph (1), and

8 “(B) may assess fees as necessary from
9 each party to cover the costs of experts called.

10 The Secretary may reduce or waive a fee under sub-
11 paragraph (B) on the basis of inability to pay.

12 “(3) NOTICE.—The Secretary shall—

13 “(A) notify individuals of the procedure es-
14 tablished under paragraph (1) or other sources
15 of assistance in resolving benefits claim dis-
16 putes, and

17 “(B) provide model information with re-
18 spect to the procedure to be included in all
19 summary plan descriptions and benefit deter-
20 minations.”

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to claims made after the date of
23 enactment of this Act.

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